

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MESSER LLC f/k/a LINDE LLC,
Plaintiff,

v.

DEVAULT PACKING COMPANY, INC.
d/b/a DEVAULT FOODS,
Defendant.

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CIVIL ACTION
NO. 18-4705

ORDER

AND NOW, this 29th day of September, 2020, upon consideration of Plaintiff's Motion for Partial Summary Judgment (ECF No. 30), Defendant's Response in Opposition (ECF No. 33), and Plaintiff's Reply in Further Support of its Motion for Partial Summary Judgment (ECF No. 43), as well as Defendant's Motion for Partial Summary Judgment (ECF No. 38), Plaintiff's Response in Opposition (ECF No. 39), and Defendant's Reply in Further Support of its Motion for Partial Summary Judgment (ECF No. 44), and for the reasons stated in the Court's accompanying Memorandum, it is hereby ORDERED as follows:

1. Plaintiff's Motion for Partial Summary Judgment is GRANTED with respect to Defendant's liability under Count I (Breach of Contract) of Plaintiff's Amended Complaint.
2. Plaintiff's Motion for Partial Summary Judgment is GRANTED with respect to Counts I, II, III, IV, and V of Defendant's Counterclaims, and those Counterclaims are accordingly DISMISSED.
3. Defendant's Motion for Partial Summary Judgment is DENIED.

It is FURTHER ORDERED that, within fourteen (14) days of the date of this Order, the parties shall jointly inform the Court in writing whether they remain amenable to continuing their

settlement efforts with Judge Sitarski, or if this matter should be scheduled for trial on all remaining issues.

BY THE COURT:

/s/ C. Darnell Jones, II
C. Darnell Jones, II J.